

Amendment No. 16

Senate Amendment to Senate Bill No. 18

(BDR 36-316)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted ☐ Lost ☐	_____	Adopted ☐ Lost ☐	_____
Concurred In ☐ Not ☐	_____	Concurred In ☐ Not ☐	_____
Receded ☐ Not ☐	_____	Receded ☐ Not ☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SHORT FORM AMENDMENT

Sections 44, 49, 51 and 65 of this act are the only sections affected by this amendment.

MSM/WLK



Date: 4/2/2013

S.B. No. 18—Makes various changes to provisions governing the Office of the Military, Nevada National Guard, Nevada National Guard Reserve and volunteer military organizations licensed by the Governor. (BDR 36-316)



If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:

Legislative Counsel's Digest:

Existing law contains the Nevada Code of Military Justice, which provides a system of adjudicating guilt and punishing offenders within the Nevada National Guard. (NRS 412.196-412.584) **Sections 8, 65 and 66** of this bill specify personal and subject matter jurisdiction under the Code. Existing law allows commanding officers to impose certain types of nonjudicial punishment upon servicemen and servicewomen under their command. (NRS 412.286-412.302) **Sections 10-17, 67-70, 107 and 110** of this bill modify provisions governing nonjudicial punishment.

Existing law provides for courts-martial to adjudicate certain offenses under the Code. (NRS 412.304-412.448) **Sections 18-32, 72-97 and 100-103** of this bill revise provisions governing courts-martial. **Sections 30 and 31** provide that certain persons found incompetent to stand trial by court-martial or not guilty by reason of lack of mental responsibility in court-martial proceedings are committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services. **Section 97** gives general courts-martial the authority to impose a punishment of confinement for up to 10 years. Convicted servicemen and servicewomen serve their confinement in civil jails, detention facilities, penitentiaries or certain prisons. (NRS 412.276, 412.414)

Existing law specifies military offenses triable by courts-martial. (NRS 412.452-412.562) **Sections 33-40** of this bill add to this list of offenses acting as a spy, espionage, possession of controlled substances, sexual assault, stalking, larceny, wrongful appropriation, extortion and assault.

Section 41 of this bill specifies who may administer oaths for the purposes of military administration, including military justice. **Sections 42 and 43** of this bill specify how the Code is to be construed. ~~**Sections 49 and 51** of this bill broaden the list of qualifications for the positions of Adjutant General and Assistant Adjutant General. (NRS 412.044, 412.054)~~

Existing law establishes the Nevada National Guard as an organized body of enlisted personnel and commissioned officers. (NRS 412.026) **Section 44** of this bill establishes the **Nevada** Enlisted Association of the National Guard of the United States, a group of current and retired enlisted personnel of the Nevada National Guard.

Section 53 of this bill conditions a program promoting rifle practice on the availability of funds from the State or Federal Government. (NRS 412.088)

Existing law provides that the Nevada National Guard cannot discriminate on the basis of race, creed, color, sex or national origin. (NRS 412.116) **Section 54** of this bill prohibits discrimination on the basis of gender or sexual orientation as well, while deleting language specifically prohibiting discrimination based on sex.

Section 57 of this bill provides that members of the Nevada National Guard deployed to perform an emergency are to be compensated according to their respective military grade and pay status instead of receiving compensation equal to that received by the main labor force in the service of the State or Federal Government as they do under existing law. (NRS 412.138)

Section 106 of this bill modifies the procedure for making a complaint against a commanding officer. (NRS 412.568) **Section 108** of this bill exempts persons subject to the Code from liability for acts or omissions performed as part of their duties under the Code. **Section 110** of this bill repeals allowances provided to servicemen and servicewomen of the Nevada National Guard for uniforms and equipment.

Section 44 of Senate Bill No. 18 is hereby amended as follows:

Sec. 44. *Enlisted personnel of the Nevada National Guard, including retired enlisted members thereof, may organize themselves into an association, which is to be named the **Nevada** Enlisted Association of the National Guard of the United States. The Association may adopt bylaws not inconsistent with the statutes of this State and may alter and amend such bylaws. The Association may, upon request, provide advice and assistance to the Adjutant General regarding matters of concern to enlisted personnel of the Nevada National Guard.*

Section 49 of Senate Bill No. 18 is hereby amended as follows:

1 **Sec. 49.** NRS 412.044 is hereby amended to read as follows:

2 412.044 1. The Governor shall appoint an Adjutant General who shall hold office for a 4-
3 year term or until relieved by reason of resignation, withdrawal of federal recognition or for
4 cause to be determined by a court-martial. The current term of an Adjutant General shall
5 continue until its prescribed expiration date while such Adjutant General is serving in a federal
6 active duty status under an order or call by the President of the United States.

7 2. To be eligible for appointment to the office of Adjutant General, a person must be an
8 officer of the Nevada National Guard, federally recognized in the grade of lieutenant colonel or
9 higher, and must have completed at least 6 ~~{years}~~ years of service in ~~{a component of}~~ the
10 Nevada ~~{Armed Forces of the United States, Reserves or}~~ National Guard as a federally
11 recognized officer.

12 3. The Adjutant General may be appointed in the grade of lieutenant colonel or higher, but
13 not exceeding that of major general. If appointed in a lower grade, the Adjutant General may be
14 promoted by the Governor to any grade not exceeding that of major general.

15 ~~{ 4. As used in this section, "Reserves" means the Air Force Reserve, Army Reserve, Coast~~
16 ~~Guard Reserve, Marine Corps Reserve and Navy Reserve. }~~

Section 51 of Senate Bill No. 18 is hereby amended as follows:

17 **Sec. 51.** NRS 412.054 is hereby amended to read as follows:

18 412.054 1. The Adjutant General may appoint two Assistant Adjutants General, one each
19 from the Nevada Army National Guard and the Nevada Air National Guard, who may serve as
20 Chief of Staff for Army and Chief of Staff for Air, respectively, at the pleasure of the Adjutant
21 General or until relieved by reason of resignation, withdrawal of federal recognition or for cause
22 to be determined by a court-martial.

23 2. To be eligible for appointment to the office of Assistant Adjutant General, a person must
24 be an officer of the Nevada National Guard, federally recognized in the grade of lieutenant
25 colonel or higher, and must have completed at least 6 ~~{years}~~ years of service in the Nevada
26 National Guard ~~{a component to the Armed Forces of the United States, Reserves or National~~
27 ~~Guard}~~ as a federally recognized officer . ~~{ 3 years of which must be immediately before the~~
28 ~~appointment. }~~

29 3. An Assistant Adjutant General may be appointed in the grade of lieutenant colonel or
30 higher, but not exceeding that of brigadier general. An Assistant Adjutant General may be
31 promoted by the Governor to any grade not exceeding that of brigadier general.

32 4. The Assistant Adjutants General shall perform such duties as may be assigned by the
33 Adjutant General.

34 5. Whoever serves as Chief of Staff for Army is in the unclassified service of the State and,
35 except as otherwise provided in NRS 284.143, shall not hold any other city, county, state or
36 federal office of profit.

37 6. In the event of the absence or inability of the Adjutant General to perform his or her
38 duties, the Adjutant General shall designate by Office regulations:

39 (a) One of the Assistant Adjutants General to perform the duties of his or her office as Acting
40 Adjutant General.

(b) If neither Assistant Adjutant General is available, any national guard officer to be the Acting Adjutant General.

↪ The designated Assistant Adjutant General or designated officer may continue to receive his or her authorized salary while so serving as Acting Adjutant General, and shall so serve until the Adjutant General is again able to perform the duties of the office, or if the office is vacant, until an Adjutant General is regularly appointed and qualified.

~~7. As used in this section, "Reserves" means the Air Force Reserve, Army Reserve, Coast Guard Reserve, Marine Corps Reserve and Navy Reserve.~~

Section 65 of Senate Bill No. 18 is hereby amended as follows:

Sec. 65. NRS 412.254 is hereby amended to read as follows:

412.254 **1.** The following persons who are not in federal service are subject to this Code:

~~1.1~~ **(a)** Members of the Nevada National Guard, whether or not they are in training pursuant to 32 U.S.C. §§ 501 to 507, inclusive.

~~1.2~~ **(b)** ~~Retired members of the Nevada National Guard who are entitled to pay.~~

~~(c)~~ **(c)** *Retired, separated or discharged members of the Nevada National Guard, regardless of their entitlement to pay, if the offense charged occurred before their retirement, separation or discharge.*

~~1.4~~ **(c)** All other persons lawfully ordered to duty in or with the Nevada National Guard, from the dates they are required by the terms of the order or other directive to obey it.

2. *No person may be punished under this Code for any offense provided for in the Code unless:*

(a) *The person is subject to any provision of subsection 1 or is a member of the state military forces; and*

(b) *The offense is either a purely military offense or a civilian offense where there is a nexus between the offense and the state military forces.*

3. *To impose disciplinary action under the Code, there must be jurisdiction over the person pursuant to section 8 of this act and jurisdiction over the subject matter pursuant to NRS 412.256.*

4. *For jurisdictional issues based on assignment or attachment, each service component shall refer to the current rules and other guidance applicable to the service component, including, without limitation, regulations and policy directives. Before the initiation of any action pursuant to this Code, the judge advocate shall require that the commanding officer resolve any jurisdictional issue regarding assigned or attached personnel involved in the action.*